UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,068	11/26/2001	Tracy L. Lentz	H 0002450 US	9534

128 7590 05/05/2004

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER	
CHORBAJI, MONZER R	

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/995,068	LENTZ ET AL.	
	Examiner	Art Unit	
	MONZER R CHORBAJI	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *04/30/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 13 and 19 are objected to because of the following informalities:

There is no difference between claims 13 and 19 since both include the same features and the preamble is for intended use only. As a result, the applicant is advised to cancel one set of claims.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-5, 10-17, and 19-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of Lentz et al (U.S.P.N. 6,438,971). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following discussion:

Claims 1, 13, and 19 in the instant application are generic claims, whereas claims 1 and 18 in the ('971) reference are species claims. The genus is "an air

handling system" and the species is "an air conditioner cooling coil associated with an air handling system".

The features of claims 1, 13, and 19 are disclosed in claims 1, 5, 18, and 21 of the ('971) reference. In claim 5 of the ('971) reference, the monitoring step is equivalent to the determining step of the instant application. The feature "on state or an off state" in the instantaneous claims is equivalent to the "cooling or non-cooling modes" in the claims of the ('971) reference. In addition, the air handling system in the instantaneous claims is equivalent to the air conditioning system in the claims of the ('971) reference.

With respect to claims 2-3, 14-15, and 20-21, claims 3, 19 of the ('971) reference discloses 2-4 hours; however, it would have been obvious to one having ordinary skill in the art to modify such a time interval through a routine knowledge since the proper time interval depends on the degree of the air treatment intended. For example, less time interval means lesser degree of UV light air treatment and the opposite is true.

The features of claims 4-5, 10-12, 16-17, and 22 are disclosed in claims 1, 5, 14, 8, 17, 21, and 28 of the ('971) reference.

6. Claims 6-9, 18, and 23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of Lentz et al (U.S.P.N. 6,438,971) in view of Ben-Aissa et al (U.S.P.N. 5,558,274).

With respect to claims 6-7, 9, 18, and 23, Lentz et al ('971) fails to explicitly disclose placing an airflow sensor along with a fan within an air handling system and also fails to teach the use of a communication bus. However, with respect to claims 6-7, 9, and 23, Ben-Aissa et al teaches the use of an airflow sensor (52A-B), the use of a fan

within an air handling (col.4, line 4), and also the use of a communication bus (32). Thus, it would have been obvious to one having ordinary skill in the art to modify the method and the system of Lentz et al ('971) to include such features since air flow sensors measure the level of cold and hot air flows (Ben-Aissa et al, col.4, lines 36-39).

The feature of claim 8 is disclosed in claim 15 of the ('971) reference.

Claim Rejections - 35 USC § 103

7. Claims 1-5, 10-17, and 19-22 are rejected under 35 U.S.C. 103(a) as being obvious over claims 1-29 of Lentz et al (U.S.P.N. 6,438,971).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned

by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

The features of claims 1, 13, and 19 are disclosed in claims 1, 5b, 5, 18, and 21 of the ('971) reference.

With respect to claims 2-3, 14-15, and 20-21, claims 3, 19 of the ('971) reference discloses 2-4 hours; however, it would have been obvious to one having ordinary skill in the art to modify such a time interval through a routine knowledge since the proper time interval depends on the degree of the air treatment intended. For example, less time interval means lesser degree of UV light air treatment and the opposite is true.

The features of claims 4-5, 10-12, 16-17, and 22 are disclosed in claims 1, 5, 14, 8, 17, 21, and 28 of the ('971) reference.

8. Claims 6-9, 18, and 23 are rejected under 35 U.S.C. 103(a) as being obvious over claims 1-29 of Lentz et al (U.S.P.N. 6,438,971) in view of Ben-Aissa et al (U.S.P.N. 5,558,274).

With respect to claims 6-7, 9, 18, and 23, Lentz et al ('971) fails to explicitly disclose placing an airflow sensor along with a fan within an air handling system and also fails to teach the use of a communication bus. However, with respect to claims 6-7, 9, and 23, Ben-Aissa et al teaches the use of an airflow sensor (52A-B), the use of a fan within an air handling (col.4, line 4), and also the use of a communication bus (32). Thus, it would have been obvious to one having ordinary skill in the art to modify the method and the system of Lentz et al ('971) to include such features since air flow sensors measure the level of cold and hot air flows (Ben-Aissa et al, col.4, lines 36-39).

The feature of claim 8 is disclosed in claim 15 of the ('971) reference.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 8:30-5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji MRC
Patent Examiner
AU 1744
04/30/2004

Robert J. Warden, Sr.
ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700